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03-04-02

PTO/SB/05 (11-00)

Approved for use through 10/31/2002. OMB 0651-0032

U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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# UTILITY PATENT APPLICATION TRANSMITTAL

Attorney Docket No. 112056-0035

First Inventor John A. Scott

Title SYSTEM AND METHOD FOR CLUSTERED FAILOVER  
WITHOUT NETWORK SUPPORT

(Only for new nonprovisional applications under 37 C.F.R. 1.53(b))

Express Mail Label No. EL 736450972 US

## APPLICATION ELEMENTS

See MPEP chapter 600 concerning utility patent application contents.

ADDRESS TO: Assistant Commissioner for Patents  
Box Patent Application  
Washington, DC 20231

1. ☒ Fee Transmittal Form (e.g., PTO/SB/17)  
(Submit an original and a duplicate for fee processing)
2. ☐ Applicant claims small entity status.  
See 37 CFR 1.27.
3. ☒ Specification [Total Pages 22]  
(preferred arrangement set forth below)
  - Descriptive title of the Invention
  - Cross References to Related Applications
  - Statement Regarding Fed sponsored R & D
  - Reference to sequence listing, a table, or a computer program listing appendix
  - Background of the Invention
  - Brief Summary of the Invention
  - Brief Description of the Drawings (if filed)
  - Detailed Description
  - Claim(s)
  - Abstract of the Disclosure
4. ☒ Drawing(s) (35 U.S.C. 113) [Total Sheets 7]
5. ☐ Oath or Declaration (unsigned) [Total Pages 2]
  - a. ☐ Newly executed (original or copy)
  - b. ☐ Copy from a prior application (37 CFR 1.63 (d))  
(for a continuation/divisional with Box 18 completed)
  - i. ☐ DELETION OF INVENTOR(S)  
Signed statement attached deleting inventor(s)  
named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b).
6. ☐ Application Data Sheet. See 37 CFR 1.76

7. ☐ CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)
8. Nucleotide and/or Amino Acid Sequence Submission (if applicable, all necessary)
  - a. ☐ Computer Readable Form (CRF)
  - b. Specification Sequence Listing on:
    - i. ☐ CD-ROM or CD-R (2 copies); or
    - ii. ☐ paper
  - c. ☐ Statements verifying identity of above copies

## ACCOMPANYING APPLICATIONS PARTS

9. ☐ Assignment Papers (cover sheet & document(s))
10. ☐ 37 C.F.R. §3.73(b) Statement of Power of Attorney (when there is an assignee)
11. ☐ English Translation Document (if applicable)
12. ☐ Information Disclosure Statement (IDS)/PTO-1449 ☐ Copies of IDS Citations
13. ☐ Preliminary Amendment
14. ☒ Return Receipt Postcard (MPEP 503)  
(Should be specifically itemized)
15. ☐ Certified Copy of Priority Document(s)  
(if foreign priority is claimed)
16. ☒ Nonpublication Request under 35 U.S.C. 122 (b)(2)(B)(i). Applicant must attach form PTO/SB/35 or its equivalent.
17. ☐ Other:

18. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76:

☐ Continuation ☐ Divisional ☐ Continuation-in-part (CIP) of prior application No: \_\_\_\_ /  
Prior application information: Examiner \_\_\_\_ Group / Art Unit: \_\_\_\_

For CONTINUATION or DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

## 17. CORRESPONDENCE ADDRESS

☒ Customer Number or Bar Code Label

(Insert C)



(Insert E)

or ☐ Correspondence address below

Name Duane H. Dreger  
Address Cesari and McKenna  
88 Black Falcon Avenue  
City Boston State MA Zip Code 02210  
Country U. S. A. Telephone (617) 951-2500 Fax (617) 951-3927

Name (Print/Type) Duane H. Dreger Registration No. (Attorney/Agent) 48,836  
Signature [Signature] Date February 28, 2002

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# FEE TRANSMITTAL for FY 2002

Patent fees are subject to annual revision.

## Complete if Known

|                      |                  |
|----------------------|------------------|
| Application Number   | Not Yet Assigned |
| Filing Date          | Herewith         |
| First Named Inventor | John A. Scott    |
| Examiner Name        | Not Yet Assigned |
| Group Art Unit       | Not Yet Assigned |
| Attorney Docket No.  | 112056-0035      |

TOTAL AMOUNT OF PAYMENT (\$ ) 908

## METHOD OF PAYMENT

1. ☐ The Commissioner is hereby authorized to charge indicated fees and credit any over payments to:

Deposit Account Number 03-1237  
Deposit Account Name Cesari and McKenna, LLP

☒ Charge Any Additional Fee Required Under 37 C.F.R. §§1.16 and 1.17

☐ Applicant claims small entity status See 37 CFR 1.27

2. ☒ Payment Enclosed:  
☒ Check ☐ Credit card ☐ Money Order ☐ Other

## FEE CALCULATION

### 1. BASIC FILING FEE

| Large Entity Code | Small Entity Code | Fee (\$) | Fee (\$) | Fee Description        | Fee Paid |
|-------------------|-------------------|----------|----------|------------------------|----------|
| 101               | 740               | 201      | 370      | Utility filing fee     | 740      |
| 106               | 330               | 206      | 165      | Design filing fee      |          |
| 107               | 510               | 207      | 255      | Plant filing fee       |          |
| 108               | 740               | 208      | 370      | Reissue filing fee     |          |
| 114               | 160               | 214      | 80       | Provisional filing fee |          |
| SUBTOTAL (1)      |                   |          |          |                        | 740      |

### 2. EXTRA CLAIM FEES

| Total Claims       | Extra Claims | Fee from below | Fee Paid |
|--------------------|--------------|----------------|----------|
| 13                 | 20**         | 0              | 0        |
| 5                  | 3**          | 2              | 168      |
| Multiple Dependent |              |                | 0        |

| Large Entity Code | Small Entity Code | Fee (\$) | Fee (\$) | Fee Description   | Fee Paid |
|-------------------|-------------------|----------|----------|---|----------|
| 103               | 18                | 203      | 9        | Claims in excess of 20                                    |          |
| 102               | 84                | 202      | 42       | Independent claims in excess of 3                         |          |
| 104               | 280               | 204      | 140      | Multiple dependent claim, if not paid                     |          |
| 109               | 84                | 209      | 42       | **Reissue independent claims over original patent         |          |
| 110               | 18                | 210      | 9        | **Reissue claims in excess of 20 and over original patent |          |
| SUBTOTAL (2)      |                   |          |          |   | 168      |

\*\*or number previously paid, if greater; For Reissues, see below

## FEE CALCULATION (continued)

### 3. ADDITIONAL FEES

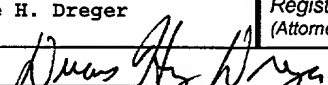
#### Large Entity Small Entity

| Fee Code            | Fee (\$) | Fee Code | Fee (\$) | Fee Description  | Fee Paid |
|---------------------|----------|----------|----------|--|----------|
| 105                 | 130      | 205      | 65       | Fee Surcharge - late filing fee or oath                                    |          |
| 127                 | 50       | 227      | 25       | Surcharge - late provisional filing fee or cover sheet                     |          |
| 139                 | 130      | 139      | 130      | Non-English Specification  |          |
| 147                 | 2,520    | 147      | 2,520    | For filing a request for ex parte reexamination                            |          |
| 112                 | 920      | 112      | 920*     | Requesting publication of SIR prior to Examiner action                     |          |
| 113                 | 1,840    | 113      | 1,840*   | Requesting publication of SIR after Examiner action                        |          |
| 115                 | 110      | 215      | 55       | Extension for reply within first month                                     |          |
| 116                 | 400      | 216      | 200      | Extension for reply within second month                                    |          |
| 117                 | 920      | 217      | 460      | Extension for reply within third month                                     |          |
| 118                 | 1,440    | 218      | 720      | Extension for reply within fourth month                                    |          |
| 128                 | 1,960    | 128      | 980      | Extension for reply within fifth month                                     |          |
| 119                 | 320      | 219      | 160      | Notice of Appeal   |          |
| 120                 | 320      | 220      | 160      | Filing a brief in support of an appeal                                     |          |
| 121                 | 280      | 221      | 140      | Request for oral hearing   |          |
| 138                 | 1,510    | 138      | 1,510    | Petition to institute a public use proceeding                              |          |
| 140                 | 110      | 240      | 55       | Petition to revive - unavoidable   |          |
| 141                 | 1,280    | 241      | 640      | Petition to revive - unintentional   |          |
| 142                 | 1,280    | 242      | 640      | Utility Issue fee (or reissue)   |          |
| 143                 | 460      | 243      | 230      | Design Issue fee   |          |
| 144                 | 620      | 244      | 310      | Plant Issue fee  |          |
| 122                 | 130      | 122      | 130      | Petitions to the Commissioner  |          |
| 123                 | 50       | 123      | 50       | Processing fee under 37 CFR 1.17(q)  |          |
| 126                 | 180      | 126      | 180      | Submission of Information Disclosure Stmt                                  |          |
| 581                 | 40       | 581      | 40       | Recording each patent assignment per property (times number of properties) |          |
| 146                 | 740      | 246      | 370      | Filing a submission after final rejection (37 CFR 1.129(a))                |          |
| 149                 | 740      | 249      | 370      | For each additional invention to be examined (37 CFR 1.129(b))             |          |
| 179                 | 740      | 279      | 370      | Request for Continued Examination (RCE)                                    |          |
| 169                 | 900      | 169      | 900      | Request for expedited examination of a design application                  |          |
| Other fee (specify) |          |          |          |  |          |
| Other fee (specify) |          |          |          |  |          |
| SUBTOTAL (3)        |          |          |          |  | 0        |

\*Reduced by Basic Filing Fee Paid

## SUBMITTED BY

## Complete (if applicable)

|                   |   |                                   |                   |           |                |
|-------------------|---|-----------------------------------|-------------------|-----------|----------------|
| Name (Print/Type) | Duane H. Dreger   | Registration No. (Attorney/Agent) | 48,836            | Telephone | (617) 951-2500 |
| Signature         |  | Date                              | February 28, 2002 |           |                |

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re The Application of: )  
John A. Scott )  
Serial No.: Not Yet Assigned ) Examiner: Not Yet Assigned  
Filed: Herewith )  
For: SYSTEM AND METHOD FOR ) Art Unit: Not Yet Assigned  
CLUSTERED FAILOVER WITH- )  
OUT NETWORK SUPPORT )  
Cesari and McKenna, LLP  
88 Black Falcon Avenue  
Boston, MA 02210  
February 28, 2002

**EXPRESS-MAIL DEPOSIT**

“Express Mail” Mailing-Label Number: EL 736450972 US

The following papers are being deposited with the United States Postal Service  
“Express Mail Post Office to Addressee” service pursuant to 37 C.F.R. §1.10:

X Patent Application ( 22 pages including 13 claims )  
X Oath or Declaration (2 pages unsigned) X Fee Transmittal Letter  
X Utility Patent Application Transmittal X Formal Drawing ( 7 sheets )  
Letter  
X Check No. 23822 for \$908 X Request for Nonpublication

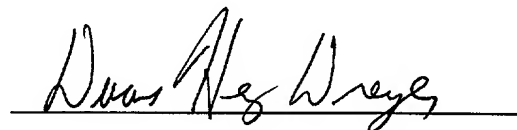
**REQUEST AND CERTIFICATION  
UNDER  
35 U.S.C. 122(b)(2)(B)(i)**

|                      |   |
|----------------------|---|
| First Named Inventor | John A. Scott   |
| Title                | SYSTEM AND METHOD FOR CLUSTERED FAILOVER<br>WITHOUT NETWORK SUPPORT |
| Atty Docket Number   | 112056-0035   |

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing. I hereby request that the attached application not be published under 35 U.S.C. 122(b).

February 28, 2002

Date



Signature

Duane H. Dreger, Reg. No 48,836

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

Burden Hour Statement: This collection of information is required by 37 CFR 1.213(a). The information is used by the public to request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that request). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231 DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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